

SECTION 500

FOR-PROFIT AUDIT REQUIREMENTS

Education Code Section 8448 requires an annual single independent financial and compliance audit of organizations that contract with the state under a direct service contract. For-profit contractors are included in these organizations, and include the following types:

1. SoleProprietors;
2. Partnerships;
3. Limited Liability Partnerships (LLP);
4. Corporations; and
5. S-Corporations; and
6. Limited Liability Corporations (LLC)

In most cases, for-profit contractors are not required to follow the Single Audit, applicable OMB Circulars, and FASB Statements No. 116 and No.117 for non-profits. The method and basis of accounting and the financial statement presentation for for-profits may differ from that of non-profits.

Sole Proprietor

Personal Financial Statements:

Assets, Liabilities and Proprietor's Capital

- Valuation of assets and liabilities is at the estimated and/or fair market value contrary to GAAP at cost.

Statement of Receipts and Disbursements (cash basis), or
Income Statement (accrual basis)

A "direct service contract" means any contract with any public or private entity for child care, nutrition and development programs, resource and referral programs, and programs contracting to provide support services. Audits carried out pursuant to this statute shall be audits of the contractor rather than audits of individual contracts or programs. In the case of any contractor that receives less than twenty-five thousand dollars per year from any state agency, the audit required by this section shall be conducted biennially, unless there is evidence of fraud or other violation of state law in connection with the direct service contract. The audit shall be completed by the 15th day of the fifth month following the end of the contractor's fiscal year.

The Child Development Division, the Nutrition Services Division, and the Adult Basic Education (ABE) Unit of the California Department of Education disburse public funds to private not-for-profit, private for-profit and public agencies to provide quality services for children and adults. Staff from these Divisions is responsible for administration of the programs.

The Audits and Investigations Division of the California Department of Education is the cognizant oversight authority mandated by the California State Legislature for agencies(subrecipients) receiving state and federal funds from the California Department of Education. Staff from this Division is responsible for reviewing audits of agencies that provide services under contract with the California Department of Education and for conducting independent audits and investigations.

Agencies contracting with a state agency to administer public monies have a responsibility to render a full accounting of their financial activities. This accounting should identify not only the objectives for which the public resources have been applied but also the manner and effect of their application. Therefore, agencies utilizing public funds must have adequate accounting systems and must arrange for an annual financial audit. Child development and adult basic education programs administered by county welfare departments and community colleges must adhere to the requirements of this audit guide.

APPLICABILITY OF SINGLE AUDIT REQUIREMENTS**501**

Under OMB Circular A-133, a for-profit contractor may be a recipient, a subrecipient, and a vendor. Specifically, Section 210, Subrecipients and vendor determinations, of OMB-Circular A-133 states that federal awards expended as a recipient or a subrecipient would be subject to single audit requirements based on the characteristics contained the five(5) criteria in each of (b) *Federal Award* and (c) *Payment for Goods and Services*.

However, there may be "gray areas" in making the determination of whether or not the contractor falls into the category of receipt/subrecipient or vendor based on circumstances or exceptions to the listed characteristics.

In part (d) *Use of Judgment in Making Determination* of Section 210 above, the substance of the relationship is more important than the form of the contract or agreement. The final decision is made based on the terms of the service contract and/or agreement. The decision is made about whether the terms "quantitatively" or "qualitatively" affect the children and adults. If the terms "qualitatively" affect the children and adults, then the decision is made that the for-profit contractor subrecipient must follow the Single Audit requirements.

ESTABLISHMENT OF SINGLE AUDIT REQUIREMENTS**502**

Part (e) *For-profit subrecipient* of Section 210 above, states that the pass-through entity, namely CDE, is responsible for establishing the necessary contract compliance requirements and audit monitoring responsibilities. Methods to ensure compliance with Federal awards include the following:

1. Pre-award audits;
2. Monitoring during the audit; and
3. Post-award audits.